

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL**

Writ Petition No. 933 of 2005 (S/S)

1. O.N. Tiwari S/o Sri R.N. Tiwari
R/o 29 Shiv Vihar Maharani
Block Phase 2 New Forest Ballupur
Dehradun
 2. J.A. Sami S/o Abdul Sami
R/o D-112/B Nehru Colony Dehradun
District Dehradun
- ... Petitioners

Versus

1. State of Uttaranchal through
The Secretary, Minor Irrigation
Uttaranchal Dehradun
 2. Chief Engineer Irrigation
Canal Road
Uddiwala
Uttaranchal Shasan
Dehradun
 3. Superintendent Engineer
Minor Irrigation
Circle – Pauri
District Pauri Garhwal
- ... Respondents

Sri H.M. Raturi, learned counsel for the petitioners
Sri N.B. Shah, learned standing counsel for the State

Hon'ble B.C. Kandpal, J.

By means of this writ petition the petitioners have challenged the impugned order dated 29.06.2005 (annexure 1 to the writ petition) passed by the respondent No. 3 transferring the petitioner No. 1 from Dehradun to Rudraprayag and petitioner No. 2 from Dehradun to Tehri Garhwal respectively.

Brief facts giving rise to this petition are that the petitioners are the permanent Junior Engineers in the Minor Irrigation Department, Uttaranchal and are also elected as Secretary and President of Union respectively.

In the month of June 2003 petitioner No. 1, namely, O.N. Tiwari was transferred to Doiwala, District Dehradun and in the month of August 2003 petitioner No. 2, Namely, J.A. Sami was transferred to the Block Vikas Nagar, District Dehradun. Since then both the petitioners are continuously working in their respective places of transfer to the utmost satisfaction of their superior to the respective places of knowledge.

The respondent No. 3 i.e. Superintendent Engineer transferred petitioner No. 1 from Block Diowala, Dehradun to Block Office, Rudrapryag, District Rudrapryag and petitioner No. 2 has been transferred from Block Vikas Nagar to Block Tehri District Tehri Garhwal vide order dated 29.06.2005.

Feeling aggrieved by the aforesaid transfer order, the petitioners have preferred this writ petition before this Court.

Heard learned counsel for the petitioners as well as learned standing counsel for the State and perused the record.

Learned counsel for the petitioner has submitted that the petitioners are holding the charge of Secretary and President respectively of Minor Irrigation Union and their tenure is likely to be completed in the year 2006. There is a clear direction in the Government Order dated 03.07.2003 by which it is envisaged that in case, the person holding the post of President and Secretary of any Union in District level cannot be transferred before completion of 5 years tenure from their place of posting and the transfer shall not be made without prior approval of the higher authority.

Learned counsel for the petitioner has submitted that these instructions are clearly mentioned in paragraph – 4 of the Government Order dated No. 734/ कार्मिक 2/2003 dated 03.07.2003, which runs as under:-

“सरकारी सेवाओं के मान्यता प्राप्त संघों के अध्यक्ष एवं सचिव जिसमें जिला शाखाओं के अध्यक्ष एवं सचिव भी सम्मिलित हैं के सीनान्तरण उनके द्वारा संगठन में पदधारित करने की तिथि से दो वर्ष तक न किये जायें, परन्तु 5 वर्ष से अधिक अवधि पर संघ के पदाधिकारी के रूप में एक स्थान पर तैनात रहने पर सामान्य स्थानान्तरण

हेतु प्राधिकृत अधिकारी से एक स्तर उच्च के अधिकारी का पूर्वानुमोदन प्राप्त किया जायें। जिला शाखाओं के पदाधिकारियों स्थानान्तरण प्रकरणों पर जिलाधिकारी की पूर्वानुमति प्राप्त की जाय।”

Learned counsel for the petitioners has further submitted that these rules have not been considered by the respondents at the time transferring them.

Without entering into the merit of the case, I am not inclined to interfere in the transfer policy by means of this writ petition.

However, I direct the respondent No. 2 to decide the representation of the petitioners within a period of 15 days from the date of filing the representation along with the copy of the certified copy of the judgment passed by this Court.

With these observations, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

13.07.2005
ASWAL